

CENTER FOR DISABILITY ACCESS
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Samuel Love,

Plaintiff,

v.

**Cow Hollow Motor Inn
Associates, L.P.,** a California
Limited Partnership,

Defendant,

Case No.

**Complaint For Damages And
Injunctive Relief For
Violations Of:** Americans With
Disabilities Act; Unruh Civil
Rights Act

Plaintiff Samuel Love complains of Cow Hollow Motor Inn Associates, L.P., a California Limited Partnership ("Defendant"), and alleges as follows:

PARTIES:

1. Plaintiff is a California resident with physical disabilities. He is substantially limited in his ability to walk. He is a paraplegic. He uses a wheelchair for mobility.

2. Defendant Cow Hollow Motor Inn Associates, L.P., a California Limited

1 Partnership, owns and operates the Cow Hollow Inn located at 2190 Lombard
 2 St., San Francisco, California, currently and at all times relevant to this
 3 complaint.

4 3. Plaintiff does not know the true names of Defendants, their business
 5 capacities, their ownership connection to the property and business, or their
 6 relative responsibilities in causing the access violations herein complained of,
 7 and alleges a joint venture and common enterprise by all such Defendants.
 8 Plaintiff is informed and believes that each of the Defendants herein,
 9 including Does 1 through 10, inclusive, is responsible in some capacity for the
 10 events herein alleged, or is a necessary party for obtaining appropriate relief.
 11 Plaintiff will seek leave to amend when the true names, capacities,
 12 connections, and responsibilities of the Defendants and Does 1 through 10,
 13 inclusive, are ascertained.

14 15 **JURISDICTION:**

16 4. The Court has subject matter jurisdiction over the action pursuant to 28
 17 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with
 18 Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

19 5. Pursuant to supplemental jurisdiction, an attendant and related cause
 20 of action, arising from the same nucleus of operative facts and arising out of
 21 the same transactions, is also brought under California's Unruh Civil Rights
 22 Act, which act expressly incorporates the Americans with Disabilities Act.

23 6. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is
 24 founded on the fact that the real property which is the subject of this action is
 25 located in this district and that Plaintiff's cause of action arose in this district.

26 27 **PRELIMINARY STATEMENT**

28 7. This is a lawsuit challenging the reservation policies and practices of a

1 place of lodging. Plaintiff does not know if any physical or architectural
2 barriers exist at the hotel and, therefore, is not claiming that that the hotel has
3 violated any construction-related accessibility standard. Instead, this is about
4 the lack of information provided on the hotel's reservation website that would
5 permit plaintiff to determine if there are rooms that would work for him.

6 8. After decades of research and findings, Congress found that there was
7 a "serious and pervasive social problem" in America: the "discriminatory
8 effects" of communication barriers to persons with disability. The data was
9 clear and embarrassing. Persons with disabilities were unable to "fully
10 participate in all aspects of society," occupying "an inferior status in our
11 society," often for no other reason than businesses, including hotels and
12 motels, failed to provide information to disabled travelers. Thus, Congress
13 decided "to invoke the sweep of congressional authority" and issue a "national
14 mandate for the elimination of discrimination against individuals with
15 disabilities," and to finally ensure that persons with disabilities have "equality
16 of opportunity, full participation, independent living" and self-sufficiency.

17 9. As part of that effort, Congress passed detailed and comprehensive
18 regulations about the design of hotels and motels. But, as importantly,
19 Congress recognized that the physical accessibility of a hotel or motel means
20 little if the 61 million adults living in America with disabilities are unable to
21 determine which hotels/motels are accessible and to reserve them. Thus,
22 there is a legal mandate to provide a certain level of information to disabled
23 travelers.

24 10. But despite the rules and regulations regarding reservation procedures,
25 a 2019 industry article noted that: "the hospitality sector has largely
26 overlooked the importance of promoting accessible features to travelers."

27 11. These issues are of paramount important. Persons with severe
28 disabilities have modified their own residences to accommodate their unique

1 needs and to ameliorate their physical limitations. But persons with disabilities
2 are never more vulnerable than when leaving their own residences and having
3 to travel and stay at unknown places of lodging. They must be able to ascertain
4 whether those places work for them.

5
6 **FACTUAL ALLEGATIONS:**

7 12. Plaintiff planned on making a trip in February of 2021 to the San
8 Francisco, California, area.

9 13. He chose the Cow Hollow Inn located at 2190 Lombard St., San
10 Francisco, California, because this hotel was at a desirable price and location.

11 14. Plaintiff needs an accessible guestroom. He needs clearance around
12 beds, he needs accessible restroom facilities including accessible sinks,
13 accessible tubs or showers and accessible toilets. He needs sufficient
14 maneuvering clearance in and around the guestroom. He needs accessories to
15 be located within an accessible reach range. In short, he benefits from and
16 needs compliant accessible guestroom features.

17 15. Plaintiff went to the Cow Hollow Inn reservation website at
18 <https://www.cowhollowmotorinn.com> seeking to book an accessible room at
19 the San Francisco location on September 24, 2020.

20 16. Plaintiff found that there was little information about the accessibility
21 of the rooms. For example, under the “Room features and Amenities”
22 heading, it states: “We offer an accessible, non-smoking room with two
23 double-size beds. These are quiet interior rooms and are mobility accessible
24 with a transfer shower”, “We offer an accessible non-smoking room with a
25 king-size bed. This room is a mobility accessible guestroom with a transfer
26 shower”, and “We offer an accessible non-smoking room with a king-size bed.
27 These rooms are mobility accessible with a roll-in shower.” These are vague
28 and conclusory statements. The Website further states that there are “Roll-in

1 showers". These vague and conclusory statements offer little detail. For
2 example, there is no information on whether the desk/table in the room is
3 accessible, if the or if the sink and toilet are accessible. There is no specific
4 information if the common areas in the Hotel are accessible.

5 17. The defendant's reservation system failed to identify and describe the
6 accessible features in the guestroom chosen by the plaintiff in enough detail to
7 reasonably permit him to assess independently whether the particular
8 guestroom met his accessibility needs.

9 18. This lack of information created difficulty for the plaintiff and the idea
10 of trying to book this room -- essentially ignorant about its accessibility --
11 caused discomfort for the Plaintiff.

12 19. Plaintiff would like to patronize this hotel but is deterred from doing so
13 because of the lack of detailed information through the hotel's reservation
14 system. Plaintiff not only travels frequently but is always on the lookout for
15 businesses that violate the law and discriminate against him and other persons
16 with disabilities, intending to have them comply with the law and pay statutory
17 penalties.

18
19 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS**
20 **WITH DISABILITIES ACT OF 1990** (On behalf of Plaintiff and against all
21 Defendants.) (42 U.S.C. section 12101, et seq.)

22 20. Plaintiff re-pleads and incorporates by reference, as if fully set forth
23 again herein, the allegations contained in all prior paragraphs of this
24 complaint.

25 21. Under the ADA, it is an act of discrimination to fail to make reasonable
26 modifications in policies, practices, or procedures when such modifications
27 are necessary to afford goods, services, facilities, privileges advantages or
28 accommodations to person with disabilities unless the entity can demonstrate

1 that taking such steps would fundamentally alter the nature of the those goods,
 2 services, facilities, privileges advantages or accommodations. See 42 U.S.C. §
 3 12182(B)(2)(A)(ii).

4 22. Specifically, with respect to reservations by places of lodging, a
 5 defendant must ensure that its reservation system, including reservations
 6 made by “any means,” including by third parties, shall:

- 7 a. Ensure that individuals with disabilities can make
 8 reservations for accessible guest rooms during the same
 9 hours and in the same manner as individuals who do not
 10 need accessible rooms;
- 11 b. Identify and describe accessible features in the hotels and
 12 guest rooms offered through its reservations service in
 13 enough detail to reasonably permit individuals with
 14 disabilities to assess independently whether a given hotel
 15 or guest room meets his or her accessibility needs; and
- 16 c. Reserve, upon request, accessible guest rooms or specific
 17 types of guest rooms and ensure that the guest rooms
 18 requested are blocked and removed from all reservations
 19 systems.

20 *See* 28 C.F.R. § 36.302(e).

21 23. Here, the defendant failed to modify its reservation policies and
 22 procedures to ensure that it identified and described accessible features in the
 23 hotels and guest rooms in enough detail to reasonably permit individuals with
 24 disabilities to assess independently whether a given hotel or guest room meets
 25 his or her accessibility needs and failed to ensure that individuals with
 26 disabilities can make reservations for accessible guest rooms during the same
 27 hours and in the same manner as individuals who do not need accessible
 28 rooms.

II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL RIGHTS ACT (On behalf of Plaintiff and against all Defendants.) (Cal. Civ. Code § 51-53.)

24. Plaintiff repleads and incorporates by reference, as if fully set forth again herein, the allegations contained in all prior paragraphs of this complaint. The Unruh Civil Rights Act (“Unruh Act”) guarantees, inter alia, that persons with disabilities are entitled to full and equal accommodations, advantages, facilities, privileges, or services in all business establishment of every kind whatsoever within the jurisdiction of the State of California. Cal. Civ. Code § 51(b).

25. The Unruh Act provides that a violation of the ADA is a violation of the Unruh Act. Cal. Civ. Code, § 51(f).

26. Defendants’ acts and omissions, as herein alleged, have violated the Unruh Act by, inter alia, failing to comply with the ADA with respect to its reservation policies and practices.

27. Because the violation of the Unruh Civil Rights Act resulted in difficulty and discomfort for the plaintiff, the defendants are also each responsible for statutory damages, i.e., a civil penalty. *See* Civ. Code § 52(a).

PRAYER:

Wherefore, Plaintiff prays that this Court award damages and provide relief as follows:

1. For injunctive relief, compelling Defendants to comply with the Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the plaintiff is not invoking section 55 of the California Civil Code and is not seeking injunctive relief under the Disabled Persons Act at all.

1 2. Damages under the Unruh Civil Rights Act, which provides for actual
2 damages and a statutory minimum of \$4,000 for each offense.

3 3. Reasonable attorney fees, litigation expenses and costs of suit, pursuant
4 to 42 U.S.C. § 12205; and Cal. Civ. Code § 52(a).

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7 Dated: October 26, 2020

CENTER FOR DISABILITY ACCESS

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12 By: _____

Russell Handy, Esq.

13 Attorneys for Plaintiff
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